

DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER: 02-0577P through 02-0596P
Withholding Tax
Calendar Year 2001

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ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-6; 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer filed its WH-3 late and was assessed ten dollars (\$10) for each late filed W-2.

Taxpayer protests the penalties assessed and states that it had not received its returns that were due on February 28, 2002. Taxpayer states that hand prepared sheets were mailed after its telephone call prior to the end of February. The returns and payments were submitted on March 15, 2002.

1. **Tax Administration** – Penalty

DISCUSSION

Taxpayer requests the department waive the penalties for its failure to file information returns timely because it had not received the WH-3 reconciliations. Taxpayer states that it immediately filed the returns upon receipt of duplicate copies. Taxpayer further states that it has been timely with its tax filings and payments since the companies began operations.

The Annual Withholding Tax Reconciliation Returns show that the W-2 forms were submitted to the Department on March 15, 2002, which was clearly late. A review of taxpayer's overall history indicates that the taxpayers had other late filed returns for which penalties were assessed. For the year 2001, departmental records indicate that the WH-3's were mailed in November 2001 and indicate no post office returns.

IC 6-8.1-10-6 (b) states:

“If a person fails to file an information return required by the department, a penalty of ten dollars (\$10) for each failure to file a timely return, not to exceed twenty-five thousand dollars (\$25,000) in any one (1) calendar year, is imposed.”

Penalty applies to the late filing of information returns, as the taxpayer has not provided reasonable cause for its failure to file.

FINDING

Taxpayer's protest is denied.

DW/RAW/JMS 021912